

## RULE 210. GENERAL

**(a) Applicability:** The Rules of this Title XXI set forth the special provisions which apply to declaratory judgment actions relating to the qualification of certain retirement plans, the value of certain gifts, the status of certain governmental obligations, the eligibility of an estate with respect to installment payments under Code section 6166, and the initial or continuing qualification of certain exempt organizations or the initial or continuing classification of certain private foundations. For the Rules that apply to declaratory judgment actions relating to treatment of items other than partnership items with respect to an oversheltered return, see the Rules contained in Title XXX. Except as otherwise provided in this Title, the other Rules of Practice and Procedure of the Court, to the extent pertinent, are applicable to such actions for declaratory judgment.

**(b) Definitions:** As used in the Rules in this Title—

(1) “Retirement plan” has the meaning provided by Code section 7476(c).

(2) A “gift” is any transfer of property that was shown on the return of tax imposed by Code chapter 12 or disclosed on such return or in any statement attached to such return.

(3) “Governmental obligation” means an obligation the status of which under Code section 103(a) is in issue.

(4) An “estate” is any estate whose initial or continuing eligibility with respect to the deferral and installment payment election under Code section 6166 is in issue.

(5) An “exempt organization” is an organization described in Code section 501(c)(3) which is exempt from tax under Code section 501(a) or is an organization described in Code section 170(c)(2).

(6) A “private foundation” is an organization described in Code section 509(a).

(7) A “private operating foundation” is an organization described in Code section 4942(j)(3).

(8) An “organization” is any organization whose qualification as an exempt organization, or whose classification as a private foundation or a private operating foundation, is in issue.

(9) A “determination” means—

(A) A determination with respect to the initial or continuing qualification of a retirement plan;

(B) a determination of the value of any gift;

(C) a determination as to whether prospective governmental obligations are described in Code section 103(a);

(D) a determination as to whether, with respect to an estate, an election may be made under Code section 6166 or whether the extension of time for payment of estate tax provided in Code section 6166 has ceased to apply; or

(E) a determination with respect to the initial or continuing qualification of an organization as an exempt organization, or with respect to the initial or continuing classification of an organization as a private foundation or a private operating foundation.

(10) A “revocation” is a determination that a retirement plan is no longer qualified, or that an organization, previously qualified or classified as an exempt organization or as a private foundation or private operating foundation, is no longer qualified or classified as such an organization.

(11) An “action for declaratory judgment” is either a retirement plan action, a gift valuation action, a governmental obligation action, an estate tax installment payment action, or an exempt organization action, as follows:

(A) A “retirement plan action” means an action for declaratory judgment provided for in Code section 7476 relating to the initial or continuing qualification of a retirement plan.

(B) A “gift valuation action” means an action for declaratory judgment provided for in Code section 7477 relating to the valuation of a gift.

(C) A “governmental obligation action” means an action for declaratory judgment provided for in Code section 7478 relating to the status of certain prospective governmental obligations.

(D) An “estate tax installment payment action” means an action for declaratory judgment provided for in Code section 7479 relating to the eligibility of an estate with respect to installment payments under Code section 6166.

(E) An “exempt organization action” means a declaratory judgment action provided for in Code section 7428 relating to the initial or continuing qualification of an organization as an exempt organization, or relating to the initial or continuing classification of an organization as a private foundation or a private operating foundation.

(12) “Administrative record” includes, where applicable, the request for determination, all documents submitted to the Internal Revenue Service by the applicant in respect of the request for determination, all protests and related papers submitted to the Internal Revenue Service, all written correspondence between the Internal Revenue Service and the applicant in respect of the request for determination of such protests, all pertinent returns filed with the Internal Revenue Service, and the notice of determination by the Commissioner.

(13) “Party” includes a petitioner and the respondent Commissioner of Internal Revenue. In a retirement plan action, an intervenor is also a party. In a gift valuation action, only the donor may be a petitioner. In a governmental obligation action, only the prospective issuer may be a petitioner. In an estate tax installment payment action, a person joined pursuant to Code section 7479(b)(1)(B) is also a party. In an exempt organization action, only the organization may be a petitioner.

(14) “Declaratory judgment” is the decision of the Court in a retirement plan action, a gift valuation action, a governmental obligation action, an estate tax installment payment action, or an exempt organization action.

**(c) Jurisdictional Requirements:** The Court does not have jurisdiction of an action for declaratory judgment under this Title unless the following conditions are satisfied:

(1) The Commissioner has issued a notice of determination, or has been requested to make a determination and failed to do so for a period of at least 270 days (180 days in the case of either a request for determination as to the status of prospective governmental obligations or a request for determination as to the initial or continuing eligibility of an estate with respect to installment payments under Code section 6166) after the request for such determination was made. In the case of a retirement plan action, the Court has jurisdiction over an action brought because of

the Commissioner's failure to make a determination with respect to the continuing qualification of the plan only if the controversy arises as a result of an amendment or termination of such plan. See Code sec. 7476(a)(2)(B). In the case of a gift valuation action, the Court has jurisdiction if the Commissioner has issued a notice of determination. See Code sec. 7477(a).

(2) There is an actual controversy. In that connection—

(A) In the case of a retirement plan action, the retirement plan or amendment thereto in issue has been put into effect before commencement of the action.

(B) In the case of a governmental obligation action, the prospective issuer has, prior to the commencement of the action, adopted an appropriate resolution in accordance with State or local law authorizing the issuance of such obligations.

(C) In the case of an exempt organization action, the organization must be in existence before commencement of the action.

(3) A petition for declaratory judgment is filed with the Court within the period specified in Code section 7476(b)(5) with respect to a retirement plan action, or the period specified in Code section 7477(b)(3) with respect to a gift valuation action, or the period specified in Code section 7478(b)(3) with respect to a governmental obligation action, or the period specified in Code section 7479(b)(3) with respect to an estate tax installment payment action, or the period specified in Code section 7428(b)(3) with respect to an exempt organization action. See Code sec. 7502.

(4) The petitioner has exhausted all administrative remedies which were available to the petitioner within the Internal Revenue Service.

**(d) Form and Style of Papers:** All papers filed in an action for declaratory judgment, with the exception of documents included in the administrative record, shall be prepared in the form and style set forth in Rule 23; except that whenever any party joins or intervenes in the action in those instances in which joinder or intervention is permitted, then thereafter, in addition to the number of copies required to be filed under such Rule, an additional copy shall be filed for each party who joins or intervenes in the action.